

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

DANIEL B. O'KEEFE, CELESTE A. FOSTER  
O'KEEFE, and THE DANCEL GROUP, INC.,

Plaintiffs,

v.

STATE FARM FIRE AND CASUALTY  
COMPANY and MARSHALL J. ELEUTERIUS,

Defendants.

CIVIL ACTION NO.: 1:08cv600-HSO-LRA

**STATE FARM FIRE AND CASUALTY COMPANY AND MARSHALL J. ELEUTERIUS'S  
MOTION TO AMEND ORDER [200]**

**COMES NOW**, State Farm Fire and Casualty Company and Marshall J. Eleuterius (hereinafter "Defendants") and file this, their Motion to Amend Order [200] and in support of same state the following:

1. On August 24, 2009, this Court entered its Order [200] wherein it set forth the following, "The Court finds that the Plaintiffs' depositions should be taken first, and the remaining Plaintiffs who have not yet been deposed are directed to be available for depositions on or before September 21, 2009. Defendants are likewise directed to be available for depositions on or before October 9, 2009." Order [200] at 2. And, "Plaintiffs' motion to compel depositions of defendant and fact witnesses [191] is granted, insofar as Plaintiffs shall be available for depositions on or before September 21, 2009, and Defendants shall be available for depositions on or before October 9, 2009." *Id.* at 3.
2. Pursuant to hearing held before this Court on August 24, 2009, Defendants were directed to re-serve discovery requests, previously propounded in State Court. Plaintiffs' responses to same are not due until September 28, 2009, seven days after the last day as set forth by the Court for Plaintiffs to appear for deposition.

3. On September 3, 2009, this Court further entered its Order [214] Granting in Part and Denying in Part Plaintiffs' Motion to Amend and Denying as Moot Plaintiffs' Motion to Expedite which granted Plaintiffs leave to amend their Complaint to clarify certain allegations. By said Order, Plaintiffs are required to file their amended complaint on or before September 25, 2009. Order[214] at 4. Accordingly, Plaintiffs' Amended Complaint is not due to be filed until four days after the last day set forth for Defendant's to take Plaintiffs' depositions. Additionally, Plaintiffs filed a Motion to Alter or Amend the Findings and/or Judgment of the Court; For a New Trial On; and/or Seeking Relief from the Court's [214] Order Granting in Part and Denying in Part Plaintiffs' Motion to Amend and Denying as Moot Plaintiffs' Motion to Expedite on or about September 4, 2009, which may further toll the deadline for filing their Motion to Amend.

4. At present, there are multiple subpoenas outstanding upon which Plaintiffs have filed Motions to Quash. Those Motions are to be heard today, September 14, 2009. The documents which are the subject of those subpoenas are relevant to claims and defenses in this matter and contain information which would likely be utilized at the deposition of the Plaintiffs.

5. Based on the foregoing, Defendants contacted Plaintiffs and proposed that the parties agree to move the deadline for taking depositions back thirty days resulting in the deadline for Plaintiffs to be available for deposition being October 21, 2009 and Defendants deadline for being available being November 9, 2009. Based on the correspondence attached hereto, it appears that the parties are at least in agreement that the dates should be pushed back to allow additional time for depositions. *See* Correspondence between Dan Webb and Christopher Van Cleave, attached hereto as Ex. A.

6. This Motion does not seek extension of any other deadlines and does not otherwise seek to amend this Court's Order and specifically, seeks to leave intact the Court's direction that Plaintiffs depositions should be taken first. The purpose of this Motion is only to address the deadlines for the parties to provide the persons previously requested for deposition.

**WHEREFORE PREMISES CONSIDERED** State Farm Fire and Casualty Company and Marshall J. Eleuterius respectfully request that this Court amend its Order [200] to move the deadline for depositions as set forth, thirty days, resulting in Plaintiffs being available and appearing for deposition on or before October 21, 2009 and Defendants (those requested up until the date of the subject order [200]) being available and appearing for deposition on or before November 9, 2009.

**RESPECTFULLY SUBMITTED**, this 14<sup>th</sup> day of September, 2009.

**WEBB, SANDERS & WILLIAMS, P.L.L.C.**  
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**J. DOUGLAS FOSTER # 100641**  
**PAIGE C. BUSH, MSB #101072**

BY: /s/ Paige C. Bush  
PAIGE C. BUSH

**CERTIFICATE OF SERVICE**

I, Paige C. Bush, one of the attorneys for Defendants, State Farm Fire and Casualty Company and Marshall J. Eleuterius, do hereby certify that on September 14, 2009, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF which will send a notice of electronic filing to the following:

Attorney for Plaintiffs

**Christopher C. Van Cleave, Esq.**  
**CORBAN, GUNN & VAN CLEAVE, PLLC.**  
**146 Porter Avenue (39530)**  
**P.O. Drawn 1916**  
**Biloxi, Mississippi 39533-1916**

**THIS**, the 14<sup>th</sup> of September, 2009.

BY: /s/ Paige C. Bush

PAIGE C. BUSH